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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Tariffs Implementing)	CC Docket No. 97-250
Access Charge Reform)	
)	
MCI Emergency Petition)	CCB/CPD 98-12
for Prescription)	

**BELLSOUTH OPPOSITION TO
MCI EMERGENCY PETITION FOR PRESCRIPTION**

**BELLSOUTH CORPORATION
BELLSOUTH TELECOMMUNICATIONS, INC.**

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SUMMARY

The Commission should reject MCI's "Emergency Petition for Prescription" outright. The Petition requests the Commission to prescribe rates, terms and conditions in connection with access reform tariffs which are in accordance with existing Commission requirements and rules. The Commission may only prescribe where it finds the rates, classifications, regulations or practices at issue to be in violation of any of the provisions of the Communications Act. Moreover, MCI has appealed one of the very same determinations it seeks to reverse: the Commission's adoption of a market-based approach to access charge regulation. As to other issues raised, MCI has failed to lodge timely requests for reconsideration of the pertinent orders. As such, the Commission must dismiss the Petition on procedural grounds.

Substantively, the Petition also lacks merit. As to the Commission's choice of a market-based approach, local competition is developing in a manner consistent with the Communications Act, and MCI's attempt to paint a dismal picture of the impact of existing access charge rate levels on carriers and consumers falls flat. Indeed, while MCI has expanded its local operations, has achieved record revenues, and has succeeded in attracting high volume customers, it has pocketed the access charge reductions which have occurred without passing along the expected benefit to consumers.

MCI's request that the Commission require ILECs to bill all PICC charges directly to end user customers is in direct contravention of existing rules. Moreover, its assertion that it has no efficient way of passing on such charges to certain customers is unbelievable, given the regulatory freedom it enjoys. Finally, the rationale posed by MCI for the requirement for ILECs

to bill all such charges -- the absence of sufficient PICC line information -- is absent, at least insofar as BellSouth is concerned.

MCI inexplicably asks the Commission to remove the distinction in primary and non-primary residential lines, while at the same time it offers two alternative definitions. BellSouth is in agreement that the distinction should be abandoned, but this is an issue for the Defining Primary Lines rulemaking proceeding. In the meantime, ILECs, such as BellSouth, have shown their existing definitions to be reasonable, and the Commission should find accordingly. Clearly, the two alternative definitions proposed by MCI are unnecessary and, indeed, would be unworkable.

BellSouth demonstrates that it is already providing detailed PICC line information consistent both with industry standards and with MCI's request. No Commission action is needed in this regard, as the industry has successfully worked through this matter itself. While BellSouth did not begin to provide such information until March 1998, the delay, which resulted from the systems arrangements and industry efforts to arrive at requirements, was not unreasonable. Beginning with the February "snapshot" of end user accounts, BellSouth's PICC line information provided to interexchange carriers is timely. This information is fully sufficient to enable carriers such as MCI to properly bill end users in the manner they have each chosen.

MCI's inclusion of the very same issues in this Petition that were included in the Sprint Petition for Declaratory Ruling regarding de-PICing of end users wastes the time of all concerned, including the Commission. Nothing new is raised here by MCI. As BellSouth stated in the Sprint proceeding, the Commission may not change existing requirements regarding either PIC changes (which can only be made with end user authorization) or PICC billing rules (which

provide for presubscribed lines to be billed to the presubscribed interexchange carrier) absent a rulemaking proceeding which affords all interested parties, including end users, with notice and an opportunity to be heard.

The Commission should not prescribe an industry-wide standard PICC “snapshot” date. MCI states this is required in order to avoid having more than one ILEC assessing a PICC charge for the same line to the same interexchange carrier, and yet this is very unlikely to ever occur and, even if it does, the impact would most likely be minimal. Moreover, ILECs across the country have different systems requirements and capabilities and not all could likely meet a uniform requirement.

Finally, MCI’s request for the Commission to require ILECs to demonstrate the exact amount of USF exogenous cost changes which are being recovered in each rate element is impossible. As BellSouth has shown in its Direct Case in the Access Reform tariff investigation, it made the exogenous cost changes as required. To the extent the information MCI requests can be determined, BellSouth already has responded to MCI.

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**BELLSOUTH OPPOSITION TO
MCI EMERGENCY PETITION FOR PRESCRIPTION**

BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth") hereby submit their opposition to the "Emergency Petition for Prescription" ("Petition") filed by MCI Telecommunications Corp. ("MCI").

I. INTRODUCTION

The Commission should reject MCI's "Emergency Petition" outright. Not only is the Petition procedurally defective, it also lacks substance, as is demonstrated in this Opposition. The prescription which MCI seeks cannot be provided because the rates, terms and conditions which are the subject of the Petition are in accordance with existing Commission requirements and rules and, as such, are not in violation of any provisions of the governing statute. The Commission should refrain from expending precious resources in this proceeding and, rather, should focus attention on more important issues such as the identification of all implicit universal service subsidies, the development of explicit, competitively neutral and non-discriminatory recovery mechanisms, and the issuance of its market-based access reform rules to enable that approach to achieve the full benefits anticipated.

In the remaining sections of the Opposition, BellSouth first discusses the procedural bars to MCI's Petition and, next, the substantive matters raised. These latter issues include not only the request for a prescribed reduction of access charges to forward-looking cost levels, but also the many access reform implementation issues MCI has raised.

II. MCI'S PETITION SHOULD BE REJECTED OUTRIGHT AS A PROCEDURALLY DEFECTIVE FRONTAL ATTACK ON THE COMMISSION'S ACCESS REFORM DECISIONS

With its Emergency Petition for Prescription, MCI requests the Commission for "an immediate prescription of key rate level, terms and conditions in the pending [Access Reform] tariff investigation."¹ The specific matters which MCI requests the Commission to address by prescription are as follows:

- 1) reduction of access charges to forward-looking economic cost levels;²
- 2) billing of all Presubscribed Interexchange Carrier Charges ("PICCs") by incumbent local exchange carriers ("ILECs") to end users;³
- 3) elimination of primary and non-primary residential line differentiation;⁴
- 4) adoption of a "standardized, verifiable" definition of primary and non-primary residential lines;⁵
- 5) requirement that ILECs provide audible line count information to interexchange carriers, by telephone number, in advance of billing;⁶

¹ MCI at 2.

² MCI at ii-iii, 2 and 6-8.

³ MCI at iv, 2-3, 15 and 21-22.

⁴ MCI at iv, 2-3 and 15.

⁵ MCI at iv, 3, 16 and 17-18. MCI inexplicably requests the Commission to eliminate the distinction between primary and non-primary lines and requests the Commission to adopt definitions distinguishing them.

⁶ MCI at iv, 3, 16 and 18.

- 6) requirement that ILECs implement de-PIC notifications based upon unilateral decisions of interexchange carriers;⁷
- 7) requirement that ILECs utilize a standard nationwide PICC “snapshot” date;⁸ and
- 8) requirement that ILECs provide interexchange carriers with the amount of universal service costs, for which exogenous cost changes were made, that are passed through in each monthly access charge bill.⁹

These requests are procedurally defective.

As a preliminary matter, MCI is requesting that charges, terms and conditions be prescribed in the Commission’s pending investigation of ILECs’ access reform tariffs.¹⁰ The Commission has already established the issues to be designated for investigation in that proceeding, and MCI has not sought reconsideration of the Designation Order. Moreover, the bulk of the issues which MCI’s Petition addresses would be outside the scope of that investigation, given that MCI, in essence, is requesting the Commission to require ILECs to implement rules other than those which were in effect at the time such filings were made and which currently remain in effect.

MCI ignores the fact that under the pertinent statutory authority, the Commission may prescribe rates, classifications, regulations and practices only upon a finding that the existing rate, classification, regulation or practice “is or will be in violation of any of the provisions” of

⁷ MCI at iv, 3, 16 and 23-24.

⁸ MCI at iv, 3, 16 and 24-25.

⁹ MCI at iv, 3, 16 and 25-26.

¹⁰ In the Matter of Tariffs Implementing Access Charge Reform, CC Docket No. 97-250, *Order Designating Issues for Investigation and Order on Reconsideration*, DA 98-151 (released January 28, 1998) (“Designation Order”). ILECs Direct Cases were filed in this investigation proceeding on February 27, 1998.

the Communications Act.¹¹ The matters upon which MCI seeks a prescription in this proceeding are rates, classifications, regulations or practices which BellSouth has put into place in full compliance with the Commission's orders and the rules adopted thereunder and there is, therefore, no basis for a prescription.

As is discussed further below, BellSouth's access charges are at the level permissible under the Commission's rules.¹² Indeed, the Commission, in the Access Reform Order¹³ specifically declined to prescribe the lower rate levels which MCI now requests.¹⁴ As to the other matters with respect to which MCI seeks a prescription, BellSouth's regulations and practices are in accordance with existing Commission rules and guidelines: 1) BellSouth's billing of PICC charges to presubscribed interexchange carriers is consistent with the existing PICC rule;¹⁵ 2) the PICC line information which BellSouth provides to carriers is in accordance with the Commission's directive in the Access Reform Order;¹⁶ 3) BellSouth takes presubscription PIC and un-PIC orders only as authorized by the involved end user, consistent

¹¹ 47 U.S.C. Section 205(a).

¹² Section III, *infra*.

¹³ In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing and End User Common Line Charges, CC Docket Nos. 96-262, 94-1, 91-213 and 95-72, *First Report and Order* 12 FCC Rcd 15982 (1997) ("Access Reform Order").

¹⁴ Moreover, any attempt to prescribe access charges on a forward-looking cost level basis would constitute an unconstitutional taking of BellSouth's property. The costs that BellSouth must recover through interstate charges are those allocated to the interstate jurisdiction through the jurisdictional separations process. The Commission cannot prescribe rates which would deny BellSouth an opportunity to recover these interstate costs.

¹⁵ Section IV, *infra*.

¹⁶ Section V.B., *infra*.

with the existing Commission requirements;¹⁷ 4) BellSouth utilizes a once-a-month “snapshot” to determine interexchange carrier PICC billing in accordance with the Commission’s Access Reform Order;¹⁸ and 5) BellSouth implemented the exogenous cost changes associated with the new universal service costs in accordance with the Commission’s Access Reform Order.¹⁹

As to MCI’s request that the Commission either eliminate the distinction in primary and non-primary lines, or establish a uniform definition to be used by all ILECs, it is true that the Commission has not yet adopted a definition in its rules. However, its Defining Primary Lines proceeding is underway,²⁰ and MCI’s concerns belong there. In the absence of a Commission determination of an industry-wide definition, the issue for the tariff investigation is whether each ILEC has used a reasonable definition given its own circumstances. That matter has already been appropriately addressed as shown in the ILECs’ Direct Cases.²¹

MCI’s Petition is procedurally defective for another reason. MCI has appealed the Commission’s Access Reform Order.²² Included as issues in that appeal are the Commission’s adoption of a market-based approach to regulating access charge rate levels and its rejection of a prescriptive approach which utilizes forward-looking economic cost levels. Having chosen that avenue of recourse, MCI cannot here apply for the same relief. To the extent MCI’s appeal fails

¹⁷ Section V.C., *infra*.

¹⁸ Section V.D., *infra*.

¹⁹ Section V.E., *infra*.

²⁰ In the Matter of Defining Primary Lines, CC Docket No. 97-181, *Notice of Proposed Rulemaking*, 12 FCC Rcd 13647 (1997) (“Defining Primary Lines NPRM”).

²¹ See Section V.A., *infra*.

²² *MCI v. FCC* No. 97-2873 (D.C. Cir. filed June 11, 1997) and No. 97-2875 (D.C. Cir. filed June 18, 1997), consolidated in *Southwestern Bell Telephone Co., et al. v. FCC*, No. 97-2618 (and consolidated cases) (8th Cir. filed June 16, 1997).

to address the remaining issues which MCI has included in the Petition under consideration here, MCI cannot now attempt to remedy this omission by belatedly raising issues here which either should have first been raised on reconsideration with the Commission or in the appeal itself. As is discussed further below, the bulk of the matters raised by MCI are a frontal attack on the Commission's determinations made in the Access Reform Order, and MCI, having chosen not to seek reconsideration in a timely fashion, is simply too late.

III. MCI'S REQUEST FOR A PRESCRIPTION OF ACCESS CHARGES TO FORWARD-LOOKING ECONOMIC COST LEVELS SHOULD BE REJECTED

The first portion of MCI's Petition is a diatribe which urges the Commission to immediately prescribe that access charges be lowered to the level of forward-looking economic costs.²³ MCI states that neither unbundled network elements ("UNEs") nor facilities-based competition will effect the reduction in access charges which it desires or in the manner which, it apparently believes, the Commission anticipated at the time it adopted the Access Reform Order. As support, MCI cites federal court rulings which determined that the Commission has no jurisdiction over pricing of UNEs and that ILECs are not required to combine UNEs for others. MCI also refers to the Commission's determinations that ILECs' Operations Support Systems ("OSS") systems do not provide nondiscriminatory access. As to facilities-based local competition, MCI states that the investments required are so vast and access charges are such a drain on interexchange carriers' resources that this means of competitive entry will be substantially less than the Commission believed when it released its Access Reform Order. It contends that, under these circumstances, ILECs will engage in a "price squeeze" once they are permitted to enter into the in-region long distance business.

²³ MCI at 1-8.

These contentions are no different than those which have already been raised and aired at the Commission in connection with the recent Petition for Rulemaking filed by the Consumer Federation of America (“CFA”) and others. As BellSouth demonstrated in its comments in that proceeding, these contentions are baseless, and BellSouth hereby incorporates into this Opposition by reference its Comments and Reply Comments filed therein.²⁴ Indeed, duplicative, meritless requests such as the instant one lodged by MCI should not be permitted to devour any more of the Commission’s time and attention. Rather the Commission should focus its resources upon more pressing issues, such as 1) assuring that all implicit universal service support is identified and made explicit in a competitively neutral and non-discriminatory fashion; and 2) defining the particular parameters of the Commission’s market-based access reform approach so that the Commission’s planned strategy for a market-based approach to lowering access charges can move forward.

MCI’s criticisms of ILEC litigation regarding the Commission’s implementation of Congress’ statutory scheme for the opening of local markets to competition are hollow. MCI cites, in particular, decisions regarding the Commission’s lack of authority over UNE pricing and its lack of authority to require ILECs to combine UNEs for requesting carriers. Such litigation has the important and legitimate purpose of assuring that statutory requirements are followed. In the meantime, BellSouth is meeting its statutory requirements to negotiate and provide local interconnection arrangements, UNEs and resale arrangements. As to OSS access, BellSouth

²⁴ In the Matter of Amendment of the Commission’s Rules: Regulatory Access Charge Reform and Price Cap Performance Review for Local Exchange Carriers, RM 9210, Opposition of BellSouth to Petition for Rulemaking of Consumer Federation of America, International Communications Association and National Retail Federation, filed January 30, 1998, and BellSouth Reply Comments, filed February 17, 1998.

continues to place tremendous resources into assuring that such access is, indeed, substantially the same as that which BellSouth provides to itself. For example, BellSouth has been working with the Commission to understand exactly what more the Commission believes is required of BellSouth's OSS arrangements. In addition, BellSouth has shown its commitment to improving the sophisticated systems which are already in place. As BellSouth discussed in its Reply Comments in the CFA proceeding, it has an officer-level organization devoted to serving the needs of competitive local exchange carriers ("CLECs") which has more than 600 full-time equivalent employees and has spent well over one-half billion dollars during fiscal year 1997 to directly support these CLEC customers regionwide.

While MCI is correct in its assertion that the Commission adopted the market-based approach, in part, with the expectation that market forces would act as a sufficient force to lower access charges over time, MCI has the erroneous view that the market-based approach must be abandoned because competition is not developing quickly enough. As indicated by the Commissioners' response to a recent en banc hearing on the progress of local competition, local competition appears to be developing in the very manner contemplated by the 1996 Telecommunications Act.²⁵ Indeed, the Commission's determination to give the market-based approach a three-year period in which to demonstrate its workability, as well as the Commission's express enunciations in the Access Reform Order,²⁶ are direct evidence of the

²⁵ BellSouth's Comments in the CFA proceeding, filed January 30, 1998, at pp. 3-4, summarized the responses of the Commissioners to the en banc hearing presentations.

²⁶ In the Access Reform Order, the Commission noted that it chose the initial three-year period "in order to give competition sufficient time to develop substantially....;" that it expected competition to develop "over the next few years," and that it would consider a prescriptive approach if competition failed to emerge "over time." Access Reform Order, paras. 260, 268, 269.

Commission's view that competition would not develop immediately, but, rather, would develop over time.

Indeed, the pessimistic view which MCI voices in its Petition is directly contradictory to the much more optimistic outlook it has presented to investors. For instance, in its Petition, MCI decries the extraordinary costs associated with developing resources and networks needed to become a facilities-based local provider, taking the position that access charges "constrain[] the financial resources available for IXCs to pursue a facilities-based local strategy."²⁷ It also asserts that current access charge levels "distort the market for interstate long distance services" which will, in turn, impede the development of local competition.²⁸ Such attempts by MCI to paint for the Commission a dismal portrait of its revenues and competitive prospects simply falls flat compared to the reports MCI issues to its investors. MCI had record long distance revenue for the fourth quarter 1997 of \$4.5 billion, an increase of 5.5% from the prior year.²⁹ MCI revenue from its local unit increased by 116% in the fourth quarter 1997 as compared to the last quarter of 1996, and MCI indicated it now operates facility-based services in thirty-one major U.S. business markets.³⁰

That MCI's earnings levels decreased, however, was not so much due to access charges as to competitive pressures in the long distance market and the programs put into place by MCI

²⁷ MCI at 7.

²⁸ Id.

²⁹ MCI Corporate Release, dated January 29, 1998, "MCI Quarterly Revenue Tops \$ 5 Billion for First Time."

³⁰ Id. MCI touts the fact that it is "bringing facilities-based competition to customers throughout the U. S. despite the obstructionist tactics of the incumbent monopolies."

to attract and retain high volume customers.³¹ Indeed, although MCI attributes the lower earnings to the combination of competitive pressures and access charge rate levels,³² access charges could not have been the source of the lower earnings. In 1997, access charges were reduced, not increased. For example, BellSouth reduced access charges by \$124.1 million in its 1997 Annual Access Tariff Filing, which was effective July 1, 1997.

Indeed, although MCI valiantly tries to demonstrate that it has passed on access charge reductions to customers, this conclusion is questionable. MCI focuses upon the reduction in its average revenue per minute ("ARPM") and various promotional programs.³³ A decline in ARPM, however, is not the equivalent of passing along access charge reductions. Indeed, the introduction and marketing of promotional offerings at reduced rates, while reducing the ARPM, has the effect of stimulating demand and, thus, revenue. The driving force behind such promotional programs must be seen for what it is: competition for high volume customers in the interexchange market, not high access charges.

³¹ As MCI reported,

In Mass Markets, MCI's focus on attracting and retaining higher-spending customers helped drive improvements in revenue and profit. The company continues to have significant success with its marketing and service integration programs aimed at building customer loyalty. Today, MCI has more than 20 joint partner marketing agreements....In addition, the September launch of MCI Five Cent Sundays has increased call volume, sales productivity and customer retention levels in MCI's customer base. MCI One, the company's flagship consumer brand for integrated long distance, personal 800, Internet and other services, added one million customers during the quarter and now has more than five million customers.

Id.

³² See, e.g., MCI at 10.

³³ MCI at 11-13.

Indeed, the level of present access charges does not impact MCI in isolation. Nor would implementation of the access charge reduction which MCI seeks here. Indeed, were access charges reduced on a forward-looking economic cost basis, such charges would be reduced for all carriers. Past practice provides no evidence whatsoever that any of these carriers would choose to pass on the savings to end user customers in lieu of increasing profit margins. Indeed, a review of MCI's tariff filings which have become effective on or after January 1, 1998, when the ILECs' access reform tariffs took effect, as well as a sampling of its bills to customers since that date, reveals that MCI is, in fact, passing PICC charges through to its end users while at the same time it has not reduced its per minute of use basic tariff toll charge rates in return.

Finally, MCI's view that access charges must be forced to forward-looking economic cost levels now in order to avoid a price squeeze once ILECs may offer in-region long distance service ignores the fact that the Commission already considered this argument and rejected it. In the Access Reform proceeding, the Commission did not merely rely upon the existence of local competition to curb any attempts by ILECs to engage in price squeeze tactics. The Commission, rather, recognized that adequate protection would be provided by means of a variety of regulatory, market, and legal safeguards, such as the separate affiliate requirement;³⁴ the Commission's ability to audit the separate books of account of the entities involved; Section 272

³⁴ In the Matter of Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area and Policy and Rules Concerning the Interstate Interexchange Marketplace, *Second Report and Order in CC Docket No. 96-149 and Third Report and Order in CC Docket No. 96-61*, 12 FCC Rcd 15756 (1997).

safeguards;³⁵ the lack of vulnerability of the largest interexchange carriers to any attempted price squeeze; and anti-trust remedies.³⁶

IV. MCI'S REQUEST THAT ILECS BE REQUIRED TO ASSESS ALL PICC CHARGES TO END USERS SHOULD BE REJECTED

MCI urges the Commission to require ILECs to bill all PICC charges directly to end users. MCI apparently believes that this is necessary because 1) it has “no efficient cost-causative manner in which [to] recover PICC charges...for zero-usage customers;”³⁷ and 2) because ILECs are not providing sufficient line information to enable it to bill PICCs to its end users accurately.

This is a frontal attack on the Commission's determination in the Access Reform Order that PICCs should be billed to presubscribed interexchange carriers and only to end users who have not selected a presubscribed carrier. The existing rule embodies this requirement.³⁸ As discussed in Section II, *supra*, if MCI had desired the adoption of a different rule, it should have sought reconsideration of the Access Reform Order, but it did not. Instead, MCI chose to appeal the Access Reform Order, and the Commission's PICC rule, under which the PICCs are assessed to presubscribed interexchange carriers, is not included within those matters being appealed. MCI cannot challenge here what it has failed to challenge on a timely and procedurally proper basis.

³⁵ 47 U.S.C. Section 272. For instance, Section 272(c) imposes a non-discrimination requirement.

³⁶ Access Reform Order, paras. 278-282.

³⁷ MCI at 8.

³⁸ 47 C.F.R. Section 69.153.

In any event, the assertion that MCI has no “efficient, cost-causative” way to pass the PICC charges on to zero-usage customers would be an insufficient basis for revising the rule. MCI can bill PICC charges to these customers, just as it can to any of its other customers, in a variety of ways. Moreover, MCI is not bound by any regulatory requirements to recover the PICC costs based upon a flat-rate assessment to end users. As an interexchange carrier subject to non-dominant regulation, it is free to devise any number of means of recovering its costs.

MCI’s assertion that ILECs should bill PICC charges to end users because they are not providing line information which MCI needs is equally without merit, at least insofar as BellSouth is concerned. As the discussion in Section V.B., *infra*, demonstrates, BellSouth is providing exactly the information which MCI states that it needs.

V. THE COMMISSION SHOULD REJECT MCI’S REQUEST FOR A PRESCRIPTION REGARDING THE VARIOUS IMPLEMENTATION ISSUES DISCUSSED

In this section of BellSouth’s Opposition to MCI’s Petition, BellSouth discusses the various “implementation” issues raised by MCI and for which MCI requests the Commission to prescribe requirements. As BellSouth demonstrates, there is no basis for the prescription which MCI seeks on any of the items.

A. The Commission Should Abandon The Distinction Between Primary And Non-Primary Residential Lines In The Defining Primary Lines Proceeding But, In The Meantime, For Purposes Of ILEC’s Access Reform Filings, Should Approve The Various Definitions In Place

MCI, on the one hand, urges the Commission to eliminate the distinction between primary and non-primary lines³⁹ while, on the other hand, it urges the Commission to prescribe,

³⁹ MCI at iv, 2-3, and 15.

or to require ILECs to adopt, “standardized, independently verifiable” definitions of such lines.⁴⁰

It states that interexchange carriers and consumers “have been harmed” by the ILECs’ existing line definitions and delays in providing “verifiable, auditable PICC data.”⁴¹ It urges the Commission to prescribe tariff language permitting ILEC customers to request independent audits of the ILECs’ PICC billing systems.⁴²

The issue of the appropriate line definitions for primary and non-primary lines is already the subject matter of the Commission’s Defining Primary Line NPRM proceeding. Absent a Commission-mandated definition, ILECs, in their Access Reform Filings, established reasonable definitions appropriate to their own circumstances. These tariff definitions are the subject of the pending investigation of the Access Reform tariff filings of BellSouth and other ILECs.⁴³ As BellSouth stated in its Direct Case filed in that proceeding, it agrees with those parties who urge the Commission to abandon the distinction between primary and non-primary lines. Substantial confusion exists within the industry, and among end user customers in particular, regarding the new non-primary line classification, and the Commission’s failure to establish a timely and implementable definition by which primary and non-primary lines can be distinguished has contributed greatly to this dilemma. As such, BellSouth has suggested that the Commission remove the distinction in its Defining Primary Lines NPRM proceeding and establish uniform charges applicable thereto.⁴⁴

⁴⁰ MCI at iv, 3, 16, and 17-18.

⁴¹ MCI at 18.

⁴² MCI at 19.

⁴³ Designation Order, para. 3 et seq.

⁴⁴ Specifically, BellSouth advocates uniform SLC charges for all residential lines and uniform PICC charges for all residential and business lines (other than ISDN).

The appropriate vehicle for removing the distinction is, however, the Defining Primary Lines NPRM proceeding, not a tariff proceeding as MCI suggests. Under the existing rules, a rate differential does, indeed, exist based upon whether a line is primary or non-primary, and the Commission is without authority in the tariff proceeding to depart from such a requirement. The issue for the tariff proceeding is whether or not, in the absence of a Commission-mandated definition, the definitions adopted by the ILECs are reasonable. As BellSouth explained in its Direct Case, the definitions which it has adopted for differentiating between primary and non-primary residential lines are reasonable and, indeed, were the only definitions which BellSouth could implement for the January 1, 1998 effective date of the new rule. BellSouth hereby refers to and incorporates herein the discussion in its Direct Case regarding these definitions and implementation matters.⁴⁵

In any event, MCI, although encouraging the Commission to eliminate the primary/non-primary line distinction, proposes two possible definitions, neither of which the Commission should impose upon ILECs. The first, that "a line is primary if it is the only line on the IXC end user billing account (instead of the ILEC end user billing account),"⁴⁶ is unworkable. According to such a definition, an ILEC would have to cross-reference its records with the interexchange carrier's own end user billing accounts to determine whether each given line is the only line on each given billing account for that carrier. The ILEC would have to do this with each interexchange carrier to which a given end user has presubscribed a line. ILECs, however, do

⁴⁵ In the Matter of Tariffs Implementing Access Charge Reform, CC Docket 97-250, BellSouth Direct Case, filed February 27, 1998, pp. 2-14 and related exhibits.

⁴⁶ MCI at 18.

not have access to such records and, indeed, administer their charges without reference to whether the end user has presubscribed its multiple lines to one or multiple carriers.

MCI proposes a second definition, that primary lines “be based on ILEC billing telephone number (BTN).”⁴⁷ MCI apparently believes that such a definition would be “more auditable and clearer to understand than the definitions the ILECs have proposed.”⁴⁸ This proposal is also unworkable. A BTN is not always a working line, but, rather, can be merely an indicator which provides a vehicle to enable the billing of multiple working lines to the same individual. In any event, the Commission need not adopt such a definition for BellSouth, given that, as is discussed in Section V.B., *infra*, BellSouth is providing all of the line-specific information MCI needs in order to determine which lines of BellSouth’s end user customers have received PICC treatment.

MCI requests the Commission to require that ILECs provide PICC treatment on the Customer Account Record Exchange (“CARE”) transactions when ILECs notify presubscribed interexchange carriers of new customers. This issue has been discussed by the industry’s Ordering and Billing Forum (“OBF”) and has been denied on each occasion thus far, for good reason. The CARE system is designed to be purely informational and is not structured as a billing system. Interexchange carriers can access CARE on a daily basis to observe the current PIC status of any given line on that day. This information can change from day to day. If PICC information were added to the CARE system, not only would this entail systems changes, but the PICC status could also change from day to day. This is because the characterization of a line as primary or non-primary can change during any given month based upon end user activity from

⁴⁷ Id.

⁴⁸ Id.

time to time, and the end user's PIC choice can also change. For PICC billing purposes, however, it is the classification of the line on the date the "snapshot"⁴⁹ is taken of end user accounts that determines PICC billing for interexchange carriers, not the classification of the line at any other time during the month.⁵⁰ To provide interexchange carriers with PICC line status reports on a daily basis likely would simply lead to more and more disputes and misunderstandings regarding PICC charges.

MCI's contention that interexchange carriers and consumers have been "harmed" by ILECs' line definitions and by their "delays" in providing "verifiable, auditable" PICC data is unsupported. As BellSouth discusses in Section V.B., *infra*, it is true that BellSouth did not begin billing PICC charges to interexchange carriers until March 1998. However, beginning with the February PICC charges, which are billed in March, all PICC billing is current. PICC bills are being issued approximately two to two and one-half weeks following the monthly PICC "snapshot" for presubscribed interexchange carriers. With billing this month (March 1998) and every month thereafter, BellSouth is providing interexchange carriers with detailed information showing what PICC charges are assessed to which lines, by telephone number of each line involved (or by circuit number for ISDN lines). The delay, as BellSouth also discusses in Section V.B., *infra*, results from the fact that PICC charges and the industry-agreed upon information requirements are new, and systems had to be developed in order to meet those requirements.

⁴⁹ The "snapshot" date is the date each month on which BellSouth determines PICC billing for interexchange carriers based upon the presubscribed status of lines and line classification. The "snapshot" date is discussed further in Sections V.B. and V.D., *infra*.

⁵⁰ The Commission has approved this snapshot approach, refraining from requiring ILECs to adjust PICC billing based upon such changes over the course of a month. Access Reform Order para. 92.

BellSouth provided notification of this delay in an early December 1997 industry Technical Review Group meeting to all carriers in attendance, including MCI, so that they could make arrangements accordingly. As an interexchange carrier subject to forbearance regulation, MCI had a full range of choices for assuring recovery of its costs during this one-month delay. While MCI states that it made the decision to recover PICC charges billed to it by ILECs through flat rated per line charges assessed to its end users, MCI was not required to choose this recovery mechanism. In any event, as BellSouth discussed in Section III, *supra*, MCI has, in fact, billed its end users PICC charges. Based upon the detailed line information MCI has received from BellSouth this month, MCI should be fully capable of truing up for any errors.

Finally, MCI requests the Commission to require ILECs to place language in their tariffs permitting customers to request an independent audit of ILECs' PICC billing systems. Such a requirement is unnecessary. BellSouth takes its "snapshot" of end user accounts for purposes of interexchange carrier PICC billing from its Customer Records Information System ("CRIS"), the system pursuant to which the involved end user local exchange services are billed. Past internal studies wherein CRIS PIC records have been compared to the PIC'd carrier in the switch have shown that the CRIS system is 99.9% accurate. Moreover, the Commission itself has authority to perform audits if needed. Finally, BellSouth believes that with the detailed information which it is providing interexchange carriers, there will be no need for such an audit. Carriers will be able to cross-check this information with their own to determine accuracy of the PIC information.

B. BellSouth Is Already Providing Detailed PICC Line Information Consistent Both With Industry Standards And With MCI's Description Of What It Needs

MCI states that the Commission should require ILECs to provide interexchange carriers with “auditable line count data for all types of lines” or, if they do not do so, the Commission should require ILECs to bill PICC charges to end users directly instead of to interexchange carriers.⁵¹

As a preliminary matter, beginning in March 1998 BellSouth is providing MCI with detailed and sufficient line information for all types of lines for which interexchange carriers are billed PICCs. BellSouth bills all of its interexchange carrier customers PICC charges once a month.⁵² Each carrier’s monthly PICC bill provides the information to which MCI refers, as described below.

BellSouth offers carriers two options regarding the type of information to be provided with the PICC bill. Under the first option, BellSouth provides the number and dollar amount of PICC charges assessed by BellSouth to a given interexchange carrier for a given month by category of PICC charge by CIC code. This information will be available at either the regional accounting office (“RAO”) or state level, whichever is the lower level of detail.⁵³ Thus, for each month, the PICC bill will show for each CIC code within each RAO or state, as applicable, the

⁵¹ MCI at 19-22.

⁵² Pursuant to interexchange carrier requests, BellSouth bills PICC charges to interexchange carriers in a monthly PICC bill which is submitted to the carrier separate from each carrier’s other access bills.

⁵³ One of BellSouth’s RAO’s includes two states: North Carolina and South Carolina. Thus, the information for this RAO is provided at the state level. In contrast, one of BellSouth states, Florida, has two RAO’s. Thus, the information for Florida is provided at the RAO level.

number and dollar amount of PICC charges assessed for each of the following categories: primary residential, non-primary residential, single line business, multi-line business, Centrex-residential, Centrex-business, BRI-ISDN-residence, BRI-ISDN single-line business, BRI-ISDN multi-line business and PRI-ISDN.⁵⁴ Attached hereto as Exhibit 1 is a mock-up of the PICC bill information for one state and one CIC code under the first option. This is the information BellSouth provides pursuant to industry standards for this option.

Under the second option, BellSouth provides all of this same information plus more detailed information listing all of the telephone numbers (or circuit numbers, in the case of ISDN) associated with each category of PICC charges. Thus, a carrier choosing this option will receive, for each CIC code in each RAO or state, as applicable, for each month, a list of the telephone numbers (or circuit numbers for ISDN) for which the primary residential PICC charge is being assessed, a list of those numbers for which the non-primary residential PICC charge is being assessed, and so on for each of the PICC line categories described above, plus the total PICC dollar amount and number of lines in each line category. Attached hereto as Exhibit 2 is a mock-up of the PICC bill format showing the additional, more detailed information which BellSouth provides, pursuant to industry standards, under the second option.⁵⁵

An interexchange carrier customer may select either option and may freely change from one option to the other from month to month by calling BellSouth's Interexchange Carrier Services Center ("ICSC"). However, in the event the carrier does not affirmatively choose one

⁵⁴ As can be seen, these line categories are even more disaggregated than the Commission's rules require, thus providing carriers with even further detailed information.

⁵⁵ For the second option, both Exhibit 1 and Exhibit 2 are utilized.